

AMENDED IN SENATE JUNE 16, 2004
AMENDED IN SENATE SEPTEMBER 4, 2003
AMENDED IN SENATE JULY 21, 2003
AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 382

Introduced by Assembly Member Correa
(Principal coauthor: Senator Ducheny)

February 14, 2003

~~An act to add Division 13.7 (commencing with Section 21196) to the Public Resources Code, and to amend Section 17133 of the Revenue and Taxation Code, relating to tribal bonds. An act to amend Section 17133 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 382, as amended, Correa. ~~Tribal bonds: environmental impacts~~ Taxation: tax exempt bonds: Indian tribal government.

The Personal Income Tax Law ~~and the Corporation Tax Law~~ impose ~~imposes~~ a tax on individual ~~and corporate~~ taxpayers, ~~respectively~~, measured by the amount of the taxpayer's taxable income for the taxable year, but ~~exclude~~ *excludes* certain items of income from the computation of tax. ~~Those laws~~ *That law*, in conformity with the federal income tax laws, ~~exempt~~ *exempts* from tax interest on bonds issued by this state or a local government in this state.

This bill would, in conformity with federal income tax laws, additionally exempt from taxation interest on bonds issued by a federally recognized Indian tribal government located in this state, ~~but only if the tribal government adopts an environmental ordinance, as provided.~~

~~Existing law requires the preparation of environmental impact reports with respect to projects that may have a significant effect on the environment.~~

~~This bill would allow a tribe to adopt an environmental ordinance providing for the preparation, circulation, and consideration by the tribe of environmental impact reports concerning potential off-reservation environmental impacts of any and all projects, as defined, funded with tax exempt municipal bond financing, as defined, and impose various duties on a tribe in connection therewith.~~

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Division 13.7 (commencing with Section~~
2 ~~21196) is added to the Public Resources Code, to read:~~

3
4 ~~DIVISION 13.7. OFF-RESERVATION ENVIRONMENTAL~~
5 ~~IMPACTS~~
6

7 ~~21196. A tribe may adopt an environmental ordinance~~
8 ~~providing for the preparation, circulation, and consideration by the~~
9 ~~tribe of environmental impact reports concerning potential~~
10 ~~off-reservation environmental impacts of any project, as defined~~
11 ~~by Section 21197, to be commenced. The ordinance may include~~
12 ~~any ordinance adopted prior to the effective date of the act adding~~
13 ~~this section. In fashioning the environmental protection ordinance,~~
14 ~~the tribe shall make a good faith effort to incorporate the policies~~
15 ~~and purposes of the National Environmental Policy Act consistent~~
16 ~~with the tribe's governmental interests.~~

17 ~~21197. (a) Pursuant to the environmental ordinance, the tribe~~
18 ~~shall do all of the following prior to commencement of a project:~~

19 ~~(1) Publish notice and inform the public of the planned project;~~
20 ~~and consult with the county in which the project is located;~~

1 ~~developing site or project-specific terms and conditions, and shall~~
2 ~~negotiate in good faith a written agreement with both the county~~
3 ~~in which the project is located, or any city limits of which the~~
4 ~~project is located, that addresses the mitigation of significant~~
5 ~~environmental, economic, and social effects directly caused by the~~
6 ~~project, or stemming from a tribal project financed with tax~~
7 ~~exempt municipal financing, including, but not limited to, the~~
8 ~~following areas: sufficiency, sustainability, and quality of~~
9 ~~groundwater supplies; air quality; solid waste management;~~
10 ~~hazardous waste management; fire and protective services; public~~
11 ~~health and safety; impacts during and of construction; increased~~
12 ~~traffic; noise; economic and social impacts; protection of cultural,~~
13 ~~historical, and biological resources. The tribe shall transmit a copy~~
14 ~~of these written agreements to the Director of the office of the~~
15 ~~American Indian Coordinator or other state entity as may be~~
16 ~~designated by the Governor, prior to the commencement of the~~
17 ~~project.~~

18 ~~(2) Take appropriate actions to determine whether the project~~
19 ~~will have any significant adverse impacts on the off-reservation~~
20 ~~environment.~~

21 ~~(3) For the purpose of receiving and responding to comments,~~
22 ~~submit all environmental impact reports concerning the proposed~~
23 ~~project to the State Clearinghouse in the Office of Planning and~~
24 ~~Research and the board of supervisors in the county in which the~~
25 ~~project is located, for distribution to the public.~~

26 ~~(4) Consult with the board of supervisors of the county or~~
27 ~~counties within which the tribe's project is located, or is to be~~
28 ~~located, and, if the project is within a city, with the city council, and~~
29 ~~if requested by the board or council, as the case may be, meet with~~
30 ~~them to discuss mitigation of significant adverse off-reservation~~
31 ~~environmental impacts directly caused by the tribal project.~~

32 ~~(5) Meet with and provide an opportunity for comment by~~
33 ~~those members of the public residing off-reservation within the~~
34 ~~vicinity of the project such as might be adversely affected.~~

35 ~~(b) During the planning of a project, the tribe shall do both of~~
36 ~~the following:~~

37 ~~(1) Keep the board or council, as the case may be, and~~
38 ~~potentially affected members of the public apprised of the projects~~
39 ~~progress.~~

~~(2) Make good faith efforts to mitigate any and all such significant adverse off-reservation environmental impacts.~~

~~(e) The term “project” means an expansion or any significant renovation or modification of an existing tribal facility, or any significant excavation, construction, or development associated with a tribal project or proposed project, and the term “environmental impact reports” means any environmental assessment, environmental impact report, or environmental impact statement, as the case may be.~~

~~(d) The tribe and the state shall, from time to time, meet to review the adequacy of this division, the tribe’s ordinance adopted pursuant thereto, and the tribe’s compliance with its obligations under this division, to ensure that significant adverse impacts to the off-reservation environment resulting from projects undertaken by the tribe may be avoided or mitigated.~~

~~SEC. 2.—~~

~~SECTION 1.~~ Section 17133 of the Revenue and Taxation Code is amended to read:

~~17133. (a) Income which this state is prohibited from taxing includes interest on bonds issued by this state or a local government in this state. In addition, interest on bonds issued by a federally recognized Indian tribal government located in this state shall be exempt from personal income taxes to the extent that the interest, at the time the bonds are issued, is excluded from federal gross income under Section 103 of the Internal Revenue Code, but only if the tribal government adopts, before the date of issuance, an environmental ordinance pursuant to Division 13.7 (commencing with Section 21196) of the Public Resources Code, and follows the procedures of that ordinance with respect to any project to be financed with the bond proceeds. Revenue Code.~~

~~(b) The determination of whether a bond is issued by this state, a local government in this state, or a federally recognized Indian tribal government in this state shall be made without regard to (a) the source of payment of that bond or the security for that bond, public or private, and (b) whether or not public improvements are financed.~~

~~(c) If there is at any time following the original issuance of that bond a separation in ownership between the bond and any right to receive interest on the bond (whether or not evidenced by a coupon), payments or accruals on that stripped bond and stripped~~

1 coupon shall be treated in a manner consistent with Section
2 1286(d) of the Internal Revenue Code.

3 *SEC. 2. This act provides for a tax levy within the meaning of*
4 *Article IV of the Constitution and shall go into immediate effect.*

